

JUDGE McMAHON

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JR PRODUCE CORP.,

Plaintiff,

v.

ASSOCIATED PRODUCE ROUTE, LTD.
d/b/a ASSOCIATED PRODUCE and
VALENTINE ZUSMAN, DIMITRI
SOYFER and JULIO C. GARCIA, each
individually,

Defendants.

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6571

Case No.



**USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: JUL 24 2009**

ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINTS

AND NOW, this 24th day of July 2009, upon consideration of Plaintiff's Application for Order to Show Cause and Temporary Restraints, under Federal Rule of Civil Procedure 65(b) (the "Application"), the Affidavit of Vanna Zuckerman and all related moving papers, good cause having been shown,


IT IS HEREBY ORDERED:

1. Defendants, Associated Produce Route, Ltd. d/b/a Associated Produce and Valentine Zusman, Dimitri Soyfer and Julio Garcia, individually, and their respective agents, attorneys, officers, assigns, and any of their banking or financial institutions must not pay, withdraw, transfer, assign or sell any and all existing PACA trust assets or otherwise dispose of corporate ~~or personal assets~~ ^{assets} to any creditors, persons or entities, via writ of execution or otherwise, until further Order of this Court and after such time as the Defendants pay no less than \$54,340.61, plus further interest, into the Registry of this Honorable Court for the benefit of the Plaintiff and other potential PACA trust beneficiaries.


2. Pending further order of this Court, or until, such time as Defendants deposit at least \$54,340.61, plus further interest, into the Registry of this Honorable Court, no banking institution holding funds for ~~any named Defendant~~ ^{Associated Produce Route Ltd d/b/a Associated Produce} shall pay, transfer or permit assignment or withdrawal of any funds or other assets held on behalf of said Defendants.  


3. Within three (3) business days of the entry of this Order, the Defendants must account to this Court and the Plaintiff's counsel for all accounts receivable, accounts payable, equipment, inventory, real estate and all other assets subject to the PACA trust and the regulations promulgated thereunder.


4. The Defendants, their agents, employees, successors, banking institutions, attorneys and all persons in active concert and participation with Defendants shall immediately turn over to the registry of this Court all funds or other assets impressed with the PACA trust.

5. This Order will be binding upon the parties to this action, their officers, agents, servants, employees, banks, or attorneys and all other persons or entities who receive actual notice of this Order by personal service or some other verifiable means of service. In this regard, within three (3) business days of the entry of this Order, the Defendants shall serve a copy of this Order on all financial institutions and third parties with which ~~any of the Defendants~~ ^{Associated Produce Route Ltd d/b/a Associated Produce} does any business, may do any business with or who may be holding any PACA trust assets for or on behalf of any of the Defendants. 

6. Because Defendants already possess \$54,340.61 of PACA trust assets which are the Plaintiff's property, the bond in this matter is hereby set at \$0.00.


7. A Preliminary Injunction Hearing is hereby set for ^{before the Hon. Colleen McMahon} August 6, 2009 

 at 2:00 pm in Courtroom 14C of the United States District Court, Southern District of New York, in New York, New York.

8. Plaintiff, through its Counsel, shall serve a true and correct copy of this Order on all Defendants including their respective counsel, if known. ^{no later than July 28, 2009} 

9. If Defendants seek to respond to Plaintiff's Application and to be released from this Temporary Restraints, they may be heard concerning the reversal of this relief upon two (2) days notice to Plaintiff's counsel and the Court.

The grounds for this Order are as follows:

 The Plaintiff's Affidavit of Vanna Zuckerman demonstrates the Defendants Associated Produce Route, Ltd. d/b/a Associated Produce (the "Company") ~~and Valentine Zusman, Dimitri Soyfer, and Julio C. Garcia, each individually, (the "Principals") (the Principals and the Company are collectively referred to herein as the "Defendants")~~ purchased perishable agricultural commodities ("Produce") in interstate commerce and, thereafter, failed to pay the Plaintiff in violation of the Perishable Agricultural Commodities Act, 1930, 7 U.S.C. §§ 499a-499t, as amended (2005 & Supp. 2007) (the "PACA").

These same pleadings and supporting documents establish that the Defendants have either dissipated the PACA trust or have presented a sufficient threat of dissipation of such trust to warrant the relief granted in this Order. On the basis of the pleadings, Affidavit and other submissions the Plaintiff filed in this matter, it appears to this Honorable Court that the Plaintiff will suffer immediate and irreparable injury due to the Defendants' dissipation of Plaintiff's beneficial interest in the statutory trust created pursuant to 7 U.S.C. § 499e(c) and that such dissipation will continue in the absence of injunctive relief. This Honorable Court is of the opinion that a Temporary Restraining Order should be issued without notice thereof due to the threat of further dissipation that such notice might allow.

IT IS SO ORDERED this 24th day of July 2009, at 4:35 pm, *JS*

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JS
UNITED STATES DISTRICT JUDGE
LAURA TAYLOR SWAIN
Part I

JS Opposition papers shall be served by hand or fax and filed with the Court, and a courtesy copy delivered by hand to Chambers 1350, US Courthouse, 500 Pearl St, NY NY 10007 no later than 4:00pm on August 3, 2009.

Any reply papers shall be served by hand or fax and filed with the Court, and a courtesy copy delivered by hand to Chambers 1350, no later than 4:00pm on August 5, 2009.